



A Guide to Our Air Pollution Enforcement Process

Air Pollution Control Program fact sheet

5/2003

Introduction

You have recently received a Notice of Violation or Excess Emissions. We want to help you understand the Missouri Department of Natural Resources' enforcement process. We hope the following information will help you as you prepare to meet with our staff.

The mission of the Department's Air Pollution Control Program is to preserve the air quality of Missouri. We protect Missouri's air quality by enforcing the state's laws and regulatory standards regarding air pollution. Our main goal in any enforcement action is to help you successfully achieve successful compliance with these standards and then to maintain compliance. The following are answers to the questions you may have about this process.

What are Notices of Violation and Notices of Excess Emissions?

The Notice of Violation or Notice of Excess Emissions is the first step in the enforcement process. When we discover a possible violation of an air pollution law or regulation, we may issue either a Notice of Violation or Notice of Excess Emissions, depending on the circumstances. The notice will state how you are out of compliance and what we expect you to do to remedy the situation.

How should I respond to a Notice of Violation or Notice of Excess Emissions?

Our first priority is to help you successfully comply with the regulations and protect Missouri's air quality. So, the first thing you need to do is review the circumstances surrounding the notice and to correct whatever has caused the problem. We will help you understand the regulations and provide some technical assistance. You can obtain additional technical assistance by contacting the department's Environmental Outreach Office at 1-800-361-4827.

If you receive a **Notice of Excess Emissions**, you have 15 days to respond to us and provide information about a startup, shutdown or malfunction, as specified in Missouri State Rule 10 CSR 10-6.050. There is a copy of this regulation on the reverse side of your Notice of Excess Emissions. If your situation meets the criteria for a startup, shutdown or malfunction, you have not violated state environmental law, and we will not take any further action. If your situation does not meet the criteria for a startup, shutdown or malfunction, we will upgrade the Notice of Excess Emissions to a Notice of Violation as required by Missouri law.

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If you receive a **Notice of Violation**, you have 15 days to let us know what happened and what you did to return to compliance or to prevent the violation from recurring. Please note that 10 CSR 10-6.050 does not apply to you if you have received a Notice of Violation. We will help you understand the regulations and provide some technical assistance. You can obtain additional technical assistance by contacting the department's Environmental Assistance Office at 1-800-361-4827. You can also hire a private consultant to assist you.

Please provide any and all information that will help us to make a fair and sound decision about your Notice of Violation or Notice of Excess Emissions. We would be happy to meet with you to discuss your Notice of Violation or your Notice of Excess Emissions. Please contact us at 1-800-361-4827 or (573) 751-4817 to schedule a meeting.

What is a settlement offer letter? What should I do if I receive one?

We review all Notice of Violations to determine what action is needed. In many cases, you will not be required to do anything other than to correct the violation. In these instances, once you have solved the problem, you are not required to do anything further because you've come back into compliance with Missouri air quality laws. The Notice of Violation simply becomes part of your permanent compliance record.

However, in some cases a penalty is appropriate. In these cases, we will send you a letter describing the violation, outlining our penalty authority and offering to settle the matter out of court. You will receive a settlement offer letter, with a Department staff member's name and phone number for you to contact. We will work with you to resolve the compliance issues and penalties.

A letter offering a settlement does not constitute a fine. It does state our belief that a penalty is warranted based on the information that we have at hand. We will listen to all sides of the story and negotiate an appropriate settlement. Many times a penalty is not required once the problem is solved, and you have come back into compliance with Missouri's air quality laws.

What happens when settlement negotiations are completed?

When we reach an agreement on a violation, we will ask the Missouri Attorney General's Office to draft a settlement agreement. This incorporates the monetary penalty and other terms of the agreement into a legally binding document.

If we cannot agree on a settlement, we will refer the violation to the Missouri Air Conservation Commission. We will request that the commission refer the violation to the Missouri Attorney General's Office for appropriate legal action. You will have an opportunity to present your side of the story before the commission. The commission is a group of seven people appointed by the governor that carries out the Missouri Air Conservation Law and ensures Missouri's air quality is protected. In addition to other duties, the commission hears appeals on enforcement orders and permit conditions and adopts, amends or rescinds rules. The commission can also initiate legal action to enforce rules.

Where does a penalty go?

The Constitution of the State of Missouri requires that all civil penalties be deposited in the school fund of the county where the violation occurred.

For more information

The Missouri Department of Natural Resources welcomes your questions and concerns. Please call or write us at the following address:

Missouri Department of Natural Resources
Air and Land Protection Division
Air Pollution Control Program
P.O. Box 176, Jefferson City, MO 65102-0176
Phone: 1-800-361-4827 or (573) 751-4817
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